



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

PROVIDENCE MEMORIAL HOSPITAL  
2001 N OREGON  
ELPASO TX 79902

#### **Respondent Name**

ARGONAUT SOUTHWEST INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 17

#### **MFDR Tracking Number**

M4-07-4168-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "According to Worker Compensation statutes the stop-loss threshold is reached once charges exceed \$40,000.00 and reimbursement admission shall be paid using a Stop-Loss Reimbursement Factor (SLRF) of 75%. Our claim should have been processed as follows:

Total Charges: \$61,455.26

Implant Charges: \$43,943.18

$\$17,512.08 \times 75\% = \$13,134.06$

Implant Cost plus 10% : \$13,352.90

Total Reimbursement = \$26,486.96 "

**Amount in Dispute:** \$19,693.26

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "A review of the documentation indicates the Requestor seeks additional reimbursement for in-patient surgical services delivered to the Claimant on August 23, 20026. However, this is not what is indicated on the table of disputed services. The data on the table of disputed services does not match the documentation attached to the table, nor does it match any correct information. For this reason, this medical dispute should be dismissed. The Requestor may file an appropriate dispute, if it is able. However, our argument below addresses to the documentation attached and not the contradictory information on the table of disputed services. On August 23, 2006, Claimant underwent surgery at Providence Memorial Hospital and remained there an unknown amount of time – without apparent ICU/CCU days. Based solely on the amount billed, Requestor invoked the Acute Care Inpatient Hospital Fee Guidelines Stop-Loss provision of Commission Rule 134.401 and sought reimbursement of \$61,455.26. Respondent properly paid \$16,793.70 based on a fair and reasonable rate. The Respondent audited and paid a fair and reasonable compensation to the Requestor in accordance with *inter alia*, the standard Division retrospective audit rules, Section 133.301 and Section 134.401. A Requestor has failed to document exactly how or why the services it provided were unusually extensive or costly, it is due no further reimbursement. To invoke the Stop-Loss reimbursement provisions, Requestor must meet two criteria: (1) the audited charges must exceed \$40,000.00, the minimum stop-loss threshold, and (2) the services made the

basis of charges must be unusually extensive/costly. Nowhere in any of the submitted documentation does Requestor indicate the services were unusually extensive or costly. Nothing in the documentation describes complications of any nature; nothing shows the procedure was anything but routine. While the Requestor did bill over \$40,000.00 for its services, it has not shown the procedure to be either unusually costly or extensive. As such, it has failed to meet the two-pronged Stop-Loss criteria, and merits no additional monies. Wherefore, Respondent respectfully requests that the Medical Review Division find that the Requestor is not entitled to any further reimbursement for the services made the basis of this dispute and has been accurately reimbursed based upon payment of per diem and carve outs."

**Response Submitted by:** Downs-Stanford, PC, 2001 Bryan Street, Suite 4000, Dallas, TX 75201

### ***SUMMARY OF FINDINGS***

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
August 23, 2006	Outpatient Surgery	\$19,693.26	\$0.00

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
3. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
4. This request for medical fee dispute resolution was received by the Division on March 5, 2007.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 106 – Provide invoice showing cost for reimbursement.
  - 16 – Not all info needed for adjudication was supplied.
  - 500 – Reimbursement amount based on U&C allowance.
  - W10 – Payment based on fair & reasonable methodology.
  - 510 – Payment determined.
  - W3 – Additional payment on appeal/reconsideration
  - W4 – No additional payment allowed after review.

#### **Findings**

1. This dispute relates to services with reimbursement subject to the provisions of Texas Administrative Code §134.1, effective May 2, 2006, 31 *Texas Register* 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(d) which states that "Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available."
2. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
3. 28 Texas Administrative Code §133.307(c)(2)(A), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include "a copy of all medical bill(s)... as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration..." Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as originally submitted to the carrier. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(A).

4. 28 Texas Administrative Code §133.307(c)(2)(C), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include "the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division." Review of the Table of Disputed Services finds that the Table of Disputed Services does not match any of the submitted documentation. The requestor has therefore failed to complete the required sections of the request in the form and manner prescribed under §133.307(c)(2)(C).
5. 28 Texas Administrative Code §133.307(c)(2)(E), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include "a copy of all applicable medical records specific to the dates of service in dispute." Review of the submitted documentation finds that the requestor has not provided copies of all medical records pertinent to the services in dispute. Although the requestor submitted a copy of the purchase requisition for the implant, the requestor did not submit a copy of the operative report, anesthesia record, post-operative care record, or other pertinent medical records sufficient to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(E).
6. 28 Texas Administrative Code §133.307(c)(2)(F)(ii), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "the requestor's reasoning for why the disputed fees should be paid or refunded." Review of the submitted documentation finds that the requestor has not stated the reasoning for why the disputed fees should be paid. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(ii).
7. 28 Texas Administrative Code §133.307(c)(2)(F)(iii), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues." Review of the submitted documentation finds that the requestor has not discussed how the Labor Code, Division rules and fee guidelines impact the disputed fee issues. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iii).
8. 28 Texas Administrative Code §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the submitted documentation supports the requestor position for each disputed fee issue." Review of the requestor's documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iv).
9. 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:
  - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
  - The Requestor is asking for reimbursement using the Stop-Loss Reimbursement Factor (SLRF) of 75%; however, the Requestor has not submitted documentation to support that the services performed were unusually costly or extensive.
  - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
  - The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
  - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

### **Authorized Signature**

_____	_____	January 31, 2012
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**